

HOUSE BILL NO. 255

INTRODUCED BY C. HARRIS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO LIQUOR LICENSES; AUTHORIZING THE CONVERSION OF A RETAIL ON-PREMISES BEER LICENSE TO AN ALL-BEVERAGES LICENSE UPON PAYMENT OF A \$75,000 FEE; PROVIDING THAT THE FEE IS DEPOSITED IN A DOLLARS FOR EDUCATION FUND; ELIMINATING THE PROVISIONS THAT A PERSON, CORPORATION, OR OTHER ENTITY MAY NOT HAVE AN OWNERSHIP INTEREST IN MORE THAN ONE ALL-BEVERAGES LIQUOR LICENSE; PROVIDING THAT A RETAIL BEER LICENSE THAT IS CONVERTED TO AN ALL-BEVERAGES LICENSE IS NOT A NEWLY ISSUED LICENSE AND IS NOT SUBJECT TO QUOTA, PROTEST, INVESTIGATION, AND OTHER REQUIREMENTS FOR A NEWLY ISSUED LIQUOR LICENSE; AMENDING SECTIONS 16-4-201, 16-4-401, AND 16-4-501, MCA; AND REPEALING SECTION 16-4-205, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-201, MCA, is amended to read:

"16-4-201. All-beverages license quota -- conversion of retail beer license. (1) Except as otherwise provided by law, a license to sell liquor, beer, and table wine at retail (an all-beverages license) in accordance with the provisions of this code and the rules of the department may be issued to any person who is approved by the department as a fit and proper person to sell ~~such~~ alcoholic beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of ~~such incorporated~~ cities and towns ~~shall~~ must be determined on the basis of population prescribed in 16-4-502 as follows:

(a) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of ~~such the~~ towns, not more than two retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 3,000 inhabitants and within a distance of 5 miles from the corporate limits of ~~such the~~ cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(c) in incorporated cities of over 3,000 inhabitants and within a distance of 5 miles from the

1 corporate limits ~~thereof of the cities~~, five retail licenses for the first 3,000 inhabitants and one retail license
2 for each additional 1,500 inhabitants.

3 (2) The number of the inhabitants in ~~such~~ incorporated cities and towns, exclusive of the number
4 of inhabitants residing within a distance of 5 miles from the corporate limits ~~thereof of the cities and~~
5 towns, ~~shall govern~~ governs the number of retail licenses that may be issued for use within ~~such the~~ cities
6 and towns and within a distance of 5 miles from the corporate limits ~~thereof of the cities and towns~~. If
7 two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total
8 number of retail licenses that may be issued for use in both of ~~such the~~ municipalities and within a distance
9 of 5 miles from their respective corporate limits ~~shall~~ must be determined on the basis of the combined
10 populations of both of ~~such the~~ municipalities and may not exceed the ~~foregoing~~ limitations in subsection
11 (1). The distance of 5 miles from the corporate limits of any incorporated city or incorporated town ~~shall~~
12 must be measured in a straight line from the nearest entrance of the premises proposed for licensing to
13 the nearest corporate boundary of the city or town.

14 (3) Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued
15 under 16-4-209, which are in excess of the ~~foregoing~~ limitations in subsection (1) ~~shall~~ must be renewable,
16 but ~~no~~ new licenses may not be issued in violation of ~~such the~~ limitations.

17 (4) ~~Such~~ The limitations in subsection (1) do not prevent the issuance of a nontransferable and
18 nonassignable ~~(as to ownership only)~~, retail license to an enlisted men's, noncommissioned officers', or
19 officers' club located on a state or federal military reservation on May 13, 1985, or to any post of a
20 nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if
21 ~~such the~~ veterans' or fraternal organization has been in existence for a period of 5 years or more prior to
22 January 1, 1949.

23 (5) The number of retail all-beverages licenses that the department may issue for use at premises
24 situated outside of any incorporated city or incorporated town and outside of the area within a distance
25 of 5 miles from the corporate limits ~~thereof of the city or town~~ may not be more than one license for each
26 ~~750 population inhabitants~~ of the county after excluding the population of incorporated cities and
27 incorporated towns in ~~such the~~ county.

28 (6) (a) The holder of an active license to sell beer at retail for on-premises consumption under
29 16-4-104 may, upon payment of the fee prescribed in 16-4-501, convert the retail beer license to an
30 all-beverages license for the same location covered by the retail beer license.

(b) An all-beverages license that was converted from a retail beer license under the provisions of subsection (6)(a) is considered to be issued to a fit and proper person and is not considered to be a newly issued license. The quota and departmental approval provisions of this section and the provisions of 16-4-203, 16-4-207, and 16-4-404 do not apply to the issuance of the converted license."

Section 2. Section 16-4-401, MCA, is amended to read:

"16-4-401. License as privilege -- criteria for decision on application. (1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in subsection (6), in the case of a license that permits on-premises consumption, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

~~(i) the applicant will not possess an ownership interest in more than one establishment licensed under this chapter for all beverages sales;~~

~~(ii)~~(i) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

~~(iii)~~(ii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

~~(iv)~~(iii) the applicant is a resident of the state and is qualified to vote in a state election;

~~(v)~~(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

~~(vi)~~(v) the applicant is not under 19 years of age; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection ~~(2)(a)(iv)~~ (2)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a);

(iii) each individual who has control over the operation of the license or shares in the profits or liabilities of the license meets the requirements for an individual applicant listed in subsection (2)(a);

(iv) the corporation is authorized to do business in Montana; and

(v) in the case of a corporation not listed on a national stock exchange, each owner of stock meets the requirements of ~~subsections~~ subsection (2)(a)(i) ~~and (2)(a)(ii)~~; and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (2)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (2)(b).

(3) In the case of a license that permits only off-premises consumption, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

~~(i) the applicant will not possess an ownership interest in more than one establishment licensed under this chapter for all beverages sales;~~

~~(ii)~~ (i) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

~~(iii)~~ (ii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

~~(iv)~~ (iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored;

~~(v)~~ (iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

~~(vi)~~ (v) the applicant is not under 19 years of age; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection ~~(3)(a)(iv)~~ (3)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a); and

(iii) the corporation is authorized to do business in Montana; and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (3)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (3)(b).

(4) In the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic beverage, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail alcoholic beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, rights have been restored;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments;

(v) the applicant is not under 19 years of age; and

(vi) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (4)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (4)(a);

(iii) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage; and

(iv) the corporation is authorized to do business in Montana; and

(c) in the case of any other business entity as applicant:

1 (i) if the applicant consists of more than one individual, all must meet the requirements of
2 subsection (4)(a); and

3 (ii) if the applicant consists of more than one corporation, all must meet the requirements of
4 subsection (4)(b).

5 (5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b)
6 apply separately to each class of stock.

7 (6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant
8 to 16-4-302."

9

10 **Section 3.** Section 16-4-501, MCA, is amended to read:

11 **"16-4-501. License and permit fees.** (1) Each beer licensee licensed to sell either beer or table
12 wine only, or both beer and table wine, under the provisions of this code, shall pay an annual license fee
13 as follows:

14 (a) (i) for each brewer and each beer importer, wherever located, whose product is sold or offered
15 for sale within the state, \$500;

16 (ii) for each storage depot, \$400;

17 (b) (i) for each beer wholesaler, \$400;

18 (ii) for each table wine distributor, \$400;

19 (iii) for each subwarehouse, \$400;

20 (c) for each beer retailer, \$200;

21 (d) (i) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer
22 license;

23 (ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in
24 conjunction with beer, \$200;

25 (e) for any unit of a nationally chartered veterans' organization, \$50.

26 (2) The permit fee under 16-4-301(1) is computed at the rate of \$10 a day for each day that beer
27 and table wine are sold at those events lasting 2 or more days, but the fee may not exceed \$300 for a
28 series of scheduled sporting events.

29 (3) The permit fee under 16-4-301(2) is \$10 for the sale of beer and table wine only or \$20 for
30 the sale of all alcoholic beverages.

(4) Passenger carrier licenses must be issued upon payment by the applicant of an annual license fee in the sum of \$300.

(5) The annual license fee for a license to sell wine on the premises, when issued as an amendment to a beer-only license pursuant to 16-4-105, is \$200.

(6) The annual renewal fee for resort retail all-beverages licenses within a ~~given~~ resort area is \$2,000 for each license.

(7) Each licensee licensed under the quotas of 16-4-201 or licensed under 16-4-201(6) shall pay an annual license fee as follows:

(a) except as provided in this section, for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, \$250 for a unit of a nationally chartered veterans' organization and \$400 for all other licensees;

(b) except as provided in this section, for each license in incorporated cities with a population of more than 2,000 and less than 5,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$350 for a unit of a nationally chartered veterans' organization and \$500 for all other licensees;

(c) except as provided in this section, for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$500 for a unit of a nationally chartered veterans' organization and \$650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other licensees;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city or town, ~~and where~~ When the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and must be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated ~~town~~ city or incorporated ~~city~~ town and any portion of the incorporated ~~town~~ city

1 or incorporated ~~city town~~ is ~~without~~ outside of a 5-mile limit, the license fee chargeable by the smaller
2 incorporated ~~town city~~ or incorporated ~~city town~~ applies and must be paid by the applicant.

3 (f) an applicant for the issuance of an original license to be located in areas described in
4 subsections (6) and (7)(d) shall provide an irrevocable letter of credit from a financial institution that
5 guarantees that applicant's ability to pay a \$20,000 license fee. A successful applicant shall pay a
6 one-time original license fee of \$20,000 for a license issued. The one-time license fee of \$20,000 may
7 not apply to any transfer or renewal of a license issued prior to July 1, 1974. All licenses, however, are
8 subject to the specified annual renewal fees.

9 (8) The fee for one all-beverages license to a public airport is \$800. This license is nontransferable.

10 (9) The annual fee for a special beer and table wine license for a nonprofit arts organization under
11 16-4-303 is \$250.

12 (10) The fee for converting a retail beer license to an all-beverages license under 16-4-201(6) is
13 \$75,000.

14 ~~(10)(11)~~ The license fees provided in this section are exclusive of and in addition to other license
15 fees chargeable in Montana for the sale of alcoholic beverages.

16 ~~(11)(12)~~ In addition to other license fees, the department of revenue may require a licensee to pay
17 a late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year or 1 year after the
18 licensee's anniversary date, 66 2/3% of any license fee delinquent on August 1 of the renewal year or 1
19 year and 1 month after the licensee's anniversary date, and 100% of any license fee delinquent on
20 September 1 of the renewal year or 1 year and 2 months after the licensee's anniversary date.

21 ~~(12)(13)~~ [(a)] All license and permit fees [, except the fee under subsection (10), that are]
22 collected under this section must be deposited as provided in 16-2-108.

23 [(b) The fee collected under subsection (10) for converting a retail beer license to an all-beverages
24 license must be deposited in the dollars for education fund established in [section 1 __ Bill No. __ [LC
25 672]].]"

26

27 NEW SECTION. Section 4. Repealer. Section 16-4-205, MCA, is repealed.

28

29 NEW SECTION. Section 5. Coordination instruction. If __Bill No. __ [LC 672] is not passed and
30 approved, then the bracketed amendments made to 16-4-501(13) are void.

31

- END -